

1 THE HONORABLE JAMES L. ROBART  
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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 UNITED STATES OF AMERICA, )  
11 v. Plaintiff, ) Case No. 2:12-cv-01282-JLR  
12 CITY OF SEATTLE, ) ) **CITY OF SEATTLE'S APRIL 2019**  
13 Defendant. ) ) **QUARTERLY REPORT**  
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1       **I. INTRODUCTION**

2       The Consent Decree between the City and the U.S. Department of Justice imposes  
 3       extensive policy, operational, and training requirements on the Seattle Police Department (SPD).  
 4       Since 2012, SPD has implemented comprehensive reforms affecting nearly every aspect of its  
 5       operations. Through the reform process, SPD's culture, policies, data-driven decision-making, and  
 6       accountability framework have been transformed.

7       SPD's recent accomplishments demonstrate that these important reforms have taken root and  
 8       will endure. Most fundamentally, the recent collective bargaining agreement (CBA) reached  
 9       between the City and the Seattle Police Officers Guild (SPOG) will effectuate key accountability  
 10      reforms that the community and City Council sought to achieve through the Accountability  
 11      Ordinance. As highlighted in the City's previous filings, the Office of the Inspector General for  
 12      Public Safety (OIG) can now exercise its authorities under the Accountability Ordinance. In  
 13      addition, key provisions of the Ordinance that are intended to make the Office of Police  
 14      Accountability (OPA) function more efficiently and effectively now can be implemented as well,  
 15      such as civilianizing investigators and lengthening and clarifying the limitations period for  
 16      discipline. Critically, the negotiations also secured the withdrawal of SPOG's legal challenge to  
 17      body-worn video policy—as a result, if an officer is in uniform, then the officer must wear video.  
 18      As this Court has emphasized, “any number of legislative options might fit within the parameters of  
 19      the Consent Decree.” Court’s Jan. 6, 2017 Order at 4 (Dkt 357). The City has adopted a robust  
 20      accountability framework through the Ordinance and the CBA, which was negotiated and signed  
 21      by the Mayor and approved by the Council.

22       Other updates contained in this report further demonstrate that SPD is not only meeting, but  
 23       exceeding, its legal requirements and has earned a stellar reputation as a leader among police

1 departments nationwide. Due to new techniques in hiring and recruitment, SPD's officers now  
2 reflect the communities it serves. Collectively, the officers hired in 2018 are more racially diverse  
3 than the population of Seattle, reflecting both a cultural and demographic shift in the Department.  
4 SPD also continues to advance progress through its policies; SPD regularly updates its policies to  
5 ensure that they continue to incorporate national best practices and constitutional principles.  
6 Proposed revisions to its Bias-Free Policing, Employee Conduct, and Crisis Intervention policies  
7 are presented to the Court concurrently with this filing. Finally, two recent audits that are filed with  
8 this report demonstrate continued compliance with the Consent Decree requirements as to Stops and  
9 Detentions and SPD's Early Intervention System and, moreover, provide evidence that SPD continues  
10 to deliver constitutional policing. One of the ways SPD does this is by providing officers with a robust  
11 program of counseling and mentoring through its Early Intervention System.

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1       **II. BACKGROUND**

2       During Phase II, the City must maintain compliance with the Consent Decree for two years.  
 3       The City must also demonstrate the ability to identify and address any obstacles to further reform. To  
 4       these ends, the Court-approved Sustainment Plan (Dkt. 444-1) provides that the City will conduct self-  
 5       assessments, or audits,<sup>1</sup> to verify whether it is continuing to comply with the Consent Decree. The  
 6       Sustainment Plan sets out more than two hundred deadlines detailing when the City must complete  
 7       each step of each assessment through January 2020, as well as setting out requirements for SPD's  
 8       policy revisions and "outcome" reports on data related to core Consent Decree areas. Since the Court  
 9       approved the Sustainment Plan on March 13, 2018, SPD has timely met all of the milestones set  
 10      forth in the plan.

11       The Sustainment Plan also includes a commitment to file quarterly reports updating the  
 12      Court on the City's progress. The Sustainment Plan requires the City to include updates on labor  
 13      relations in each quarterly report. This is the fourth quarterly report.

14       **III. THE CITY HAS REACHED COLLECTIVE BARGAINING AGREEMENTS  
 15      WITH BOTH SPD UNIONS THAT ADVANCE KEY ACCOUNTABILITY  
 16      REFORMS AND BUILD UPON THE PROGRESS THAT THE CITY HAS  
 17      ACHIEVED UNDER THE CONSENT DECREE**

18       After negotiating for several years, the City has reached collective bargaining agreements  
 19      (CBAs) with the Seattle Police Management Association, in November 2017, and the Seattle  
 20      Police Officers Guild, in November 2018. Dkts. 425 & 512. The Court ordered briefing on these  
 21      

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22       <sup>1</sup> The audits required by the Sustainment Plan are not audits in a formal sense, because they  
 23      do not follow auditing guidelines nor are they conducted by an outside body. Rather, in keeping  
 24      with the two phases set out in the Consent Decree, the parties and the Monitor agreed that these  
 25      reports would be comprised of assessments conducted by SPD in order to demonstrate SPD's  
 26      ability to engage in critical self-analysis and to identify and address any obstacles to further  
 27      progress that may arise. One exception is that the parties and the Monitor agreed that the Office of  
 28      the Inspector General will conduct the audit of SPD's Force Review Board.

1 agreements and the potential implications, if any, for the City's compliance with the Consent  
 2 Decree, and that briefing was completed on March 6, 2019. Dkts. 504, 507, 543. The Court has set  
 3 a status conference for May 15, 2019, to discuss these issues.

4 **The CBA Achieved Key Accountability Reforms**

5 Officer discipline is improved, through the clarification and, in some circumstances, the  
 6 extension of the 180-day clock for OPA to investigate allegations of police misconduct, including  
 7 bias complaints and serious use-of-force investigations. The CBA also provides that two sworn  
 8 investigators in OPA and a sworn sergeant in SPD human resources can be replaced by civilians;

9 The CBA also implements the accountability framework envisioned by the City's  
 10 democratic leaders, by guaranteeing OIG full and unfettered access to all SPD operations. It  
 11 implements SPD's body-worn video policy BWV and the great majority of the Accountability  
 12 Ordinance provisions (and the Guild must withdraw its unfair labor practices complaints as to  
 13 each).

14 The SPOG CBA also eliminates the DRB and replaces it with an updated method for  
 15 selecting an arbitrator, which the City anticipates will lead to faster processing of appeals.

16 **The CBA Retained Both Arbitration and the Public Safety Civil Service Commission  
 17 (PSCSC) for Disciplinary Appeals**

18 Although the CBA eliminates the DRB, it does retain arbitration as an alternative to the  
 19 PSCSC for disciplinary appeals. Binding arbitration has significant advantages. As an initial  
 20 matter, it is a relatively fast, inexpensive method of resolving labor disputes. Arbitration is an  
 21 integral part of labor law. *See, e.g. United Steelworkers of Am. v. Enter. Wheel & Car*, 363 U.S.  
 22 593, 596 (1960). ("[T]he arbitrators under these collective agreements are indispensable agencies  
 23 in a continuous collective bargaining process."). Because public safety employees are prohibited

1 from striking, arbitration is considered especially critical in this setting. *See Elkouri & Elkouri,*  
 2 *How Arbitration Works*, Ch. 22.4 (8<sup>th</sup> ed) (Dkt. 512-8, Exhibit H).

3 Moreover, arbitration of discipline and other disputes is a widespread method for resolving  
 4 disagreements for public employees. In Seattle, for example, under all twenty-eight of the CBAs  
 5 to which the City is a party, employees have the ability to challenge discipline through arbitration.  
 6 This includes firefighters, utility workers, carpenters, court marshals, IT professionals, parking  
 7 enforcement, and every other City employee under a CBA. The City is not aware of any CBA for  
 8 public safety employees in Washington state that does not allow for arbitration of major  
 9 disciplinary decisions.

10 There is no basis in fact or law to conclude that restricting disciplinary appeals to the Public  
Safety Civil Service Commission (PSCSC) would improve accountability.

11 While some have argued to this Court that the Public Safety Civil Service Commission is  
 12 preferable to arbitration for purposes of accountability, there is no basis in fact or law for that  
 13 argument. First, in any system that affords due process there will be instances when disciplinary  
 14 decisions are overturned. Second, history refutes the assertion that a civil service commission will  
 15 overturn fewer cases than arbitrators is unsupported.

16 The PSCSC does not have a better track record than arbitration of upholding the Chief of  
 17 Police's disciplinary decisions. In fact, the PSCSC has reversed SPD's disciplinary terminations  
 18 three times and sustained four times.<sup>2</sup> Those numbers are comparable to arbitration; if anything,  
 19 over the long run, SPD has fared slightly better in arbitrations.

22 <sup>2</sup> These results are publicly available at <https://www.seattle.gov/public-safety-civil-service-commission/findings>.

1       The Accountability Ordinance did not mandate that the PSCSC provide any greater  
 2 deference to the Chief's disciplinary decisions than that shown by arbitrators.<sup>3</sup> The Ordinance  
 3 provides that the decision of the Chief will be affirmed "unless the Commission specifically finds  
 4 that the disciplinary decision was not in good faith for cause," which is identical to the existing  
 5 PSCSC standard. *Compare* AO § 4.08.105(A)(3), *with* SMC § 4.08.100(A). The PSCSC's "good  
 6 faith for cause" standard is comparable to the "just cause" standard used by arbitrators. *See City of*  
 7 *Seattle v. City of Seattle*, 230 P.3d 640, 645-46 (Ct. App. Wash. 2010).

8       **IV. THE COMMUNITY POLICE COMMISSION'S ROLE IS MORE CRITICAL  
 9       THAN EVER TO ACCOUNTABILITY AND ITS MISSION REMAINS ONE OF  
 THE FUNDAMENTAL PILLARS OF REFORM**

10       As set forth in the Memorandum of Understanding, the Community Police Commission  
 11 (CPC) is integral to community oversight, accountability, and promoting greater transparency and  
 12 public understanding of the Seattle Police Department. One of its central missions is community  
 13 outreach and engagement in order to educate and build public trust between SPD and the  
 14 communities it serves. As an ambassador to, and voice of, Seattle's communities, the Commission  
 15 must be a reflection of Seattle in terms of key demographics, geography, and other key  
 16 characteristics of the communities served.

17       On May 1, eight new members will join the Commission and more appointments are  
 18 expected. The new Commissioners represent a diverse cross-section of Seattle and bring new  
 19 energy to the Commission at this critical time in the Sustainment Period. Given that one-third of  
 20 the Commission will be new members, it also provides a fresh opportunity for the City to re-  
 21 evaluate and re-focus the Commission on its mission of engaging with communities and

22  
 23       <sup>3</sup> In fact, this interpretation of the Ordinance would bring it into conflict with the state law  
 that gives the PSCSC authority to modify disciplinary decisions. *See* RCW 41.12.090.

1 facilitating community oversight of SPD. The City hopes the composition of the new  
 2 Commissioners will bring a spirit of cooperation and collaboration with SPD and the other  
 3 “Accountability Partners”—the Office of Police Accountability and Office of the Inspector  
 4 General. In so doing, the City plans to convene the Accountability partners around a visioning and  
 5 strategy retreat that strategically maps out the work for present and beyond the sustainment period.  
 6 The City believes the CPC’s role is critical now and that it will be even more so after the  
 7 Sustainment Period ends. The City will redouble its efforts to support and partner with CPC and  
 8 the other Accountability partners to make the Commission even more relevant and impactful to  
 9 building public trust and confidence.

10 **V. ENGAGING WITH THE CITY’S DIVERSE COMMUNITIES CONTINUES TO  
 11 BE OF THE UTMOST PRIORITY FOR SPD**

12 Diversity Hiring Numbers for 2018

13 When considering disparities in terms of how police contacts affect the City’s diverse  
 14 communities, the role of recruiting and retaining a diverse police force that reflects the composition  
 15 of the community must be emphasized. Significant changes in recruitment and hiring implemented  
 16 by the Department have produced results. *Thus, SPD’s 2017 and 2018 hiring were more diverse  
 17 than Seattle as a whole.* The percentage of new hires who are people of color in recent years is as  
 follows:

<b>2014:</b>	<b>22%</b>
<b>2015:</b>	<b>30%</b>
<b>2016:</b>	<b>30%</b>
<b>2017:</b>	<b>35%</b>
<b>2018:</b>	<b>36%</b>

22 Throughout 2018 and into the present, the Department has remained focused on  
 23 sustainment of earlier improvements and implemented additional outreach strategies. For example,

1 among other changes, SPD developed a “recruiting cadre” of department officers who are trained  
 2 and serve as recruiting liaisons in their precincts and in the community, allowing for wider reach  
 3 and more direct connections, and it increased the quality and quantity of outreach engagement at  
 4 local events.

5 Training to Address Implicit Bias and the History of Racism

6 SPD is a leader in innovative, socially conscious training, and SPD’s training section  
 7 continues to evolve its curriculum with the goal of building trust between its officers and the  
 8 community.

9 In 2019, for the first time, all sworn officers will be required to complete courses in African  
 10 American history and the history of Seattle’s Central District. SPD has worked with the Northwest  
 11 African American Museum to develop this training, which will include, among other topics, a  
 12 guided tour of the museum’s galleries and a facilitated discussion regarding cultural diversity and  
 13 the importance of culturally relevant policing.

14 In addition, SPD is working in partnership with the Washington State Criminal Justice  
 15 Training Commission to provide officers with high quality training on implicit racial bias. For the  
 16 first time in 2019 the Department has mandated that all sworn officers complete an eight-hour<sup>4</sup>  
 17 class on implicit racial bias that is offered by the Washington State Criminal Justice Training  
 18 Commission. The training is given by Dr. Bryant Marks, a Professor of Psychology at Morehouse  
 19 College and a nationally recognized training expert on diversity and implicit bias.

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 21  
 22 <sup>4</sup> This training replaces the four-hour course on implicit racial bias that officers were  
 23 previously required to take. *See generally* Monitor’s Mem. Re Bias-Free Policing Training (Dkt. 176).

1       These new training requirements are in addition to the trainings that SPD continues to  
 2 provide in conjunction with the Seattle Holocaust Center. This course focuses on interactions  
 3 between law enforcement and minority communities and cultural sensitivity.

4       Creation of a New Collaborative Policing Bureau

5       SPD recently created a new Collaborative Policing Bureau. As law enforcement,  
 6 nationwide, has increasingly been called upon to assume a leadership role at the intersection of  
 7 public health and public safety, SPD recognized the opportunity to provide more coordinated  
 8 services by centralizing the Department's many community-based initiatives within one  
 9 bureau. The Collaborative Policing Bureau is overseen by an Assistant Chief, highlighting the  
 10 importance of its mission. The Bureau brings together the Navigation Team/Homeless Outreach,  
 11 the Crisis Response Section, and the Community Outreach Section, and serves a vital role in  
 12 enhancing collaboration between SPD and the many social service agencies that provide both on-  
 13 the-ground assistance and on-going care for many of Seattle's most vulnerable citizens.

14       Officers throughout the Department continue to embrace their important role in the  
 15 community, as reflected in the continuing high rate of advance crisis intervention training among  
 16 patrol and in SPD's micro-community policing plan priorities. The Collaborative Policing Bureau  
 17 builds on these accomplishments and reflects the Department's commitment to focused attention  
 18 on sustaining community relationships, open communication, and building trust as the City works,  
 19 collectively to address the crises around homelessness, substance use disorder, and mental health  
 20 concerns. SPD's commitment in this area demonstrates yet further action to ensure the Department  
 21 keeps pace with society's rapidly evolving expectations for police officers.

1 **SPD's Disparity Review**

2       Concurrently with this quarterly report, the City submits SPD's Disparity Review. This  
 3 Disparity Review is undertaken to carry out the Seattle Police Department's commitment to  
 4 eliminate unwarranted racial disparities in police contacts. This report identified disparities in the  
 5 use of force, investigative stops, and frisks. These activities are particularly important areas in  
 6 which to study and address unwarranted racial disparity. If an officer uses unreasonable or  
 7 unnecessary force against a member of the community, it violates the person's civil rights and  
 8 dignity. Investigative stops and frisks are critical in light of concerns previously raised in the U.S.  
 9 Department of Justice's 2011 investigation and more recent findings by the Monitor.

10       SPD recognizes that it alone cannot explain or address the many factors that underlie the  
 11 tremendous disparities that pervade not only the criminal justice system but distributions in  
 12 income, education, health, and housing throughout this country. SPD's goal for this study is to  
 13 identify if there are unwarranted racial disparities that result from the Department's own practices  
 14 which can be addressed by policy changes. This report contains initial results, with a follow-on  
 15 study due to the Court on December 31, 2019. As detailed in policy, SPD's efforts to identify and  
 16 eliminate unwarranted racial disparities will continue beyond the Consent Decree.

17 **SPD's Bias-Free Policing Policy Affirms These Commitments**

18       As part of its reform efforts under the Consent Decree, SPD worked with the court-  
 19 appointed monitor, the U.S. Department of Justice, and the Community Police Commission to  
 20 adopt a strong policy on bias-free policing<sup>5</sup> that goes beyond the requirements of the Consent  
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22       <sup>5</sup> Available at <https://www.seattle.gov/police-manual/title-5---employee-conduct/5140---bias-free-policing>. Importantly, under the Bias-Free Policing Policy any officer who hears a  
 23 complaint related to biased policing is required to call a supervisor to respond to the scene in person.

1 Decree. On June 11, 2015, the Court approved this policy (Dkt. 205), which defines “bias-based  
 2 policing” as “the different treatment of any person by officers motivated by any characteristic of  
 3 protected classes under state, federal, and local laws as well as other discernible personal  
 4 characteristics of an individual.” The policy reinforces the Department’s values of providing  
 5 services and enforcing the laws in a professional, nondiscriminatory, fair, and equitable manner  
 6 and expresses the Department’s commitment to study and eliminate unwarranted racial  
 7 disparities:

8 The Seattle Police Department is committed to eliminating policies  
 9 and practices that have an unwarranted disparate impact on certain  
 10 protected classes. It is possible that the long-term impacts of  
 11 historical inequality and institutional bias could result in  
 12 disproportionate enforcement, even in the absence of intentional  
 13 bias. The Department’s policy is to identify ways to protect public  
 14 safety and public order without engaging in unwarranted or  
 15 unnecessary disproportionate enforcement.

16 In consultation with the Community Police Commission, and the  
 17 Office of the Inspector General for Public Safety, the Department  
 18 shall periodically analyze data which will assist in identification of  
 19 SPD practices – including stops, citations and arrests – that may  
 20 have a disparate impact on particular protected classes relative to  
 21 the general population.

22  
 23 SPD’s Bias-Free Policing policy further provides that, “[w]hen unwarranted disparate impacts are  
 1 identified and verified, the Department will consult with neighborhoods, businesses, community  
 2 groups, and/or the Community Police Commission, and the Office of the Inspector General for  
 3 Public Safety, to explore equally effective alternative practices that would result in less  
 4 disproportionate impact.”

24  
 25 All such complaints must be documented and investigated. In appropriate cases, bias allegations  
 26 are forwarded to OPA for review or investigation.

1       As part of its commitment to bias-free policing, SPD is proposing improvements to the  
 2 process for handling allegations of bias. SPD made revisions intended to ensure the adequacy of  
 3 bias investigations under circumstances in which the person making the allegation left the scene  
 4 prior to a supervisor's arrival or declined to speak with the supervisor. The proposed revisions  
 5 require that an officer who receives a bias complaint must ask the person to (voluntarily) provide  
 6 contact information before he or she leaves the scene. If the person leaves the scene without talking  
 7 to a supervisor, then the supervisor must make meaningful attempts to contact them afterward. If  
 8 the complainant is still unavailable or unresponsive, then the supervisor must review any body-  
 9 worn video and in-car video of the incident.

10      **VI. SPD WORKED WITH DOJ AND THE MONITOR TO DEVELOP PROPOSED  
 11            POLICY REVISIONS THAT REPRESENT IMPORTANT, CONTINUED  
 12            PROGRESS**

13       The SPD Audit Policy and Research Section (APRS) reviews all Department policies on a  
 14 three-year cycle. The Consent Decree-mandated policies, which are especially critical, are being  
 15 reviewed annually. During the last quarter, two of these policy reviews were scheduled and are  
 16 discussed below. In addition, the Department completed revisions to its Employee Conduct Policy  
 17 and issued an interim policy directive regarding the use of data analytics by supervisors. The  
 18 Monitor and DOJ approved all of these changes and were particularly instrumental in the second  
 two.

19       Interim Directive Regarding Data Analytics Platform

20       Based on feedback from the Monitor, SPD recently issued a policy directive that  
 21 establishes new requirements for Captains, Lieutenants, and Sergeants to regularly review the  
 22 squad and officer performance data available within SPD's data analytics platform (DAP).  
 23 Through the DAP and other records management systems, SPD is able to accurately collect and

1 track the data required by the Consent Decree. The wealth of data in the DAP on use of force,  
 2 crisis response, and stops and detentions, is also relevant to risk management and performance  
 3 management. This sophisticated data management tool allows supervisors to track and analyze  
 4 data and identify trends for purposes of employee supervision and management. This new directive  
 5 will encourage direct engagement between supervisors and their direct reports throughout the  
 6 chain of command. It will also enable lieutenants and captains to view information at the individual  
 7 officer level more frequently and in more detail.

8 Proposed Changes to Crisis Intervention Policy

9 In addition to DOJ the Monitor, and CPC, the Crisis Intervention Committee<sup>6</sup> also reviewed  
 10 the proposed changes to the Crisis Intervention policy. Only minor revisions to this policy are  
 11 proposed. A number of very small edits were to make language more clear or precise. A note of  
 12 clarification is added to 16.110-POL-5, which addresses taking a person into custody based on an  
 13 order from the person's designated crisis responder (typically a mental health professional). The  
 14 added language clearly sets out the boundaries of an officer's legal authority in that situation; for  
 15 example, such an order does not give an officer authority to enter a person's house without consent.

16 Proposed Changes to Employee Conduct Policy

17 The proposed revisions to the Employee Conduct Policy, title sections 5.001-003,  
 18 accomplish two important goals. First, they delineate clear lines of responsibility with respect to  
 19 serious policy violations, which must be referred to OPA for investigation. Second, they empower  
 20  
 21

22 <sup>6</sup> As required by the Consent Decree, SPD established the Crisis Intervention Committee,  
 23 a regional interagency coalition of social service providers, mental health experts, law enforcement  
 and judicial representatives.

1 supervisors to address performance deficiencies through mentoring, counseling, and setting clear  
 2 expectations.

3 These changes continue SPD's work to address feedback from the Monitoring Team and  
 4 other stakeholders that supervisors should have greater responsibility to address minor policy  
 5 violations. *See e.g., Monitor's Fourth Systemic Assessment* at 5-6. Effective supervisory  
 6 engagement requires the ability to handle relatively small performance issues quickly and  
 7 informally, through feedback, instruction, or training. It has the potential to impede on-the-job  
 8 learning and the supervisor-employee relationship if all performance matters must be submitted  
 9 through the formal OPA process.

10 Section 5.002 governs the responsibilities of employees concerning alleged policy  
 11 violations. Substantial revisions are proposed to this section. To provide greater guidance to  
 12 supervisors regarding the matters that must be referred to OPA, it defines a new term, "Serious  
 13 Policy Violation," clarifies the categories of misconduct that qualify as Serious Policy Violations,  
 14 and mandates that all conduct within these categories must be referred to OPA. Under the  
 15 proposed revisions, Serious Policy Violations include: use of force that is not reasonable,  
 16 necessary, and proportional; violations of constitutional protections; criminal violations;  
 17 dishonesty; bias-based policing; and failure to cooperate in an internal investigation. The revised  
 18 version of 5.002 also defines another new term, "Performance Deficiencies," as failures to meet  
 19 the Department's performance expectations, including any policy violations that are not  
 20 categorized as Serious Policy Violations. Performance Deficiencies are handled internally by the  
 21 Chain of Command, rather than being referred to OPA.<sup>7</sup>

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23 <sup>7</sup> Repeated policy violations are still referred to OPA, even if the violation is not a Serious  
 Policy Violation. *See* revised 5.002-POL-4.

1       The proposed revisions to 5.002 also create a new screening procedure for  
 2 “Unsubstantiated Allegation of Serious Misconduct.” This process is employed when a supervisor  
 3 investigates an alleged Serious Violation Policy and determines that the evidence refutes the  
 4 allegations. For example, there is an allegation of excessive force, and the officer’s body-worn  
 5 video definitely establishes that the officer made no physical contact whatsoever with the  
 6 complainant. Under current policy, such an allegation would still be referred to OPA for  
 7 investigation. Under the revised policy, the supervisor will review the incident with a lieutenant or  
 8 captain, document the incident, and then send it to OPA for screening. OPA will confirm that the  
 9 complaint is unsubstantiated and then return it to the chain of command, instead of conducting a  
 10 full investigation. This revision will allow OPA’s investigative resources to be better focused. OIG  
 11 began tracking the new screening procedure in 5.002 for Unsubstantiated Allegations of Serious  
 12 Misconduct when this procedure was being tested as a pilot program, and OIG will continue to  
 13 exercise oversight going forward.

14       The revisions to 5.003 are also significant. The existing version of 5.003, titled “Frontline  
 15 Investigations,” established a process for SPD supervisors to handle minor policy violations  
 16 (which are redefined as Performance Deficiencies in the proposed version of 5.002) internally,  
 17 rather than referring all violations to OPA. The new proposed changes maintain this purpose, but  
 18 clarify the supervisor’s role embraces coaching, mentoring, and training—in addition to making  
 19 appropriate referrals to OPA.

20       The proposed version of 5.003 is titled Performance Counseling Review. The new policy  
 21 clarifies the role of supervisors in addressing Performance Deficiencies. It directs supervisors to  
 22 counsel and mentor employees to address Performance Deficiencies, and identifies specific, non-  
 23 disciplinary remedial actions that supervisors can take, such as training, direct coaching, and

1 mentoring. In the revised policy, Performance Deficiencies are documented and logged in SPD's  
 2 management system, BlueTeam, instead of in the Performance Appraisal System (where they are  
 3 currently recorded). The BlueTeam records will ensure transparency and enable auditing of this  
 4 new system to ensure that it is used appropriately. For the first six months under the new policy,  
 5 OPA will monitor all of the Performance Deficiencies being documented. The new process in  
 6 5.003 for handling Performance Deficiencies within the chain of command will be routinely  
 7 audited by OIG to ensure that they are being consistently and appropriately handled.

8 **VII. SPD CONTINUES TO BE A LEADER AMONG POLICE DEPARTMENTS  
 9 NATIONWIDE WITH REGARD TO DATA ANALYTICS**

10 *A. SPD's Data Analytics Platform (DAP)*

11 As noted in previous reports, SPD procured and implemented a customized data analytics  
 12 platform (DAP), which extracts data from the Department's records management systems and  
 13 Computer Aided Dispatch. The DAP integrates data and allows it to be systemically analyzed,  
 14 contextualized, and displayed. The DAP allows SPD, not only to search data relating to use of  
 15 force, crisis responses, and Terry stops, but also to analyze the relationships between this  
 16 information and information that is stored in other databases—such as information on arrests,  
 17 charges, and 911 calls. The Department's researchers work closely with the operational  
 18 commanders to address questions relevant to policy and strategy; for example, they use  
 19 “dashboards” powered by the DAP to monitor real-time trends. SPD also uses DAP for its annual  
 20 reports to the public to analyze data and present it visually. Significantly, the DAP also enables  
 21 most of the data and analysis for all of SPD's Consent Decree-related audits and assessments.

22 Significant enhancements and additions to the DAP, referred to internally as “DAP 1.1,”  
 23 are scheduled to be implemented in June 2019. DAP 1.1 will ensure more detailed documentation  
 of *all* detentions—going far beyond the requirements of the Consent Decree—by incorporating

1 new requirements for officers to record information about community caretaking and booking  
 2 activities. Another example of an enhancement is that DAP 1.1 will link officers' reports on Terry  
 3 stops and interactions with people in crisis to a Master Name Index in order to more frequently  
 4 and accurately identify repeated contacts. Collectively, these upgrades will complement the new  
 5 capabilities of Mark43 and improve and expand SPD's already advanced data analytics.

6 *B. SPD is scheduled to go live with a next-generation records management system on May*  
 7 *7, 2019.*

8 It was neither advisable nor feasible for SPD to replace all of its records management  
 9 systems (RMS) at the same time that it rolled out a program as complex as the DAP, which was  
 10 first implemented in mid-2017 and to which SPD has continued to add new capabilities throughout  
 11 2018. Accordingly, SPD planned for its new, highly customized RMS, called Mark43, to be  
 12 implemented in 2019. With Mark43, the DAP will be able to draw a wider range of data more  
 13 quickly and with a greatly reduced requirements for time-consuming quality control efforts (i.e.,  
 14 "data governance"). Currently, the DAP pulls data from SPD's various legacy RMS. In addition,  
 15 many of the reports that officers make about their policing activities must be filled out in a separate  
 16 template and then attached or uploaded, rather than input directly into the legacy RMS. Mark 43  
 17 will replace these legacy systems with a single, user-friendly system into which officers can type  
 18 their reports directly. In addition, Mark43 is more user friendly and it contains significant quality  
 19 control improvements, such as error alerts and protocols that do not allow incomplete reports to  
 20 be submitted. Examples of the benefits that Mark43 will deliver include:

- 21 • Reportable incidents—such as a use of force, Terry stop, or crisis contact—can no longer  
 22 be submitted by an officer without completing the disposition field, eliminating the small  
 23 number of incidents for which disposition (i.e., the ultimate outcome, such as an arrest)  
 cannot be immediately retrieved.
- Officer's documentation of Terry stops and crisis contacts will be seamlessly linked to the  
 records of the corresponding Computer Aided Dispatch event and General Offense Report.

1 In the future, once Mark43 has been running smoothly for several months, officers' use of  
 2 force reports will also be input directly into Mark43 and linked to other materials in the  
 same manner.

3 As with any other major software change or upgrade it is expected that some bugs will  
 4 need to be worked out in the initial weeks. However, in short order, Mark43 is expected to improve  
 5 the speed, accuracy, and thoroughness with which data about SPD's policing activities can be  
 6 searched and retrieved.

7 **VIII. THE OFFICE OF POLICE ACCOUNTABILITY AND THE FORCE REVIEW  
 BOARD AND UNIT CONTINUE TO ENSURE THAT POLICY VIOLATIONS  
 ARE IDENTIFIED AND ADDRESSED**

8 SPD Force Review Board (FRB) and Force Review Unit (FRU)

9 The FRB and FRU review all uses of force to determine if they were compliant with SPD's  
 10 Use of Force Policy. A brief summary of internal review is provided here, while the complete  
 11 procedures are specified in Title 8 of the SPD Manual. After using Type I force, an officer must screen  
 12 the incident with a sergeant and complete a use of force report. The sergeant investigates the incident  
 13 and then elevates the review up the chain of command. Type II uses of force are reviewed in depth  
 14 first by an administrative lieutenant, through the chain of command to the section captain, and then by  
 15 the Force Review Unit (described below). Type III uses of force are investigated by a specially trained  
 16 unit called the Force Investigation Team. The Force Review Board (described below) provides an  
 17 additional layer of review for all Type III uses of force, to include officer-involved shootings, and the  
 18 most serious Type II uses of force.

19 FRB is "the Department's hub of internal accountability, analysis, and continual improvement with  
 20 respect to force." *Monitor's Second Systemic Assessment*, Dkt. 247 at 4. The FRB is a select group  
 21 of SPD personnel who are specially trained to investigate officer uses of force which meets regularly  
 22 to make determinations as to (1) whether a use-of-force investigation is thorough and complete; (2)

1 whether the force was compliant with SPD policy, and consistent with training, and core principles;  
 2 and (3) whether any broader, systemic issues need to be addressed with respect to policy, tactics,  
 3 equipment, or otherwise. FRB reviews not just the force itself, but examines all tactics and decision-  
 4 making starting from the beginning of the incident, including all events that led up to the use of  
 5 force, and all those that followed the use of force.

6 By policy, the FRB reviews all cases in which Type III force is used, including all officer  
 7 involved shootings. The FRU, comprised of a captain, a lieutenant, a sergeant, and two detectives,  
 8 reviews all Type II uses of force. When certain factors are present in a Type II case—such as the use  
 9 of less-lethal tools or use of a canine—the FRU places it on the calendar to be reviewed by the FRB.  
 10 In the first quarter of 2019, the FRB and FRU reviewed 39 cases.

11 **Number of Cases Reviewed By Quarter:**

Quarter	FRB	FRU
Q1 (1/1/18-3/31/18)	41	9
Q2 (4/1/18 – 6/30/18)	41	10
Q3 (7/1/28-9/30/18)	45	5
Q4 (10/01/18-12/31/18)	59	20
Q1 (1/1/19-3/31/19)	28	11

16 A total of 105 officers were involved in the 39 cases reviewed by FRU and FRB this  
 17 quarter. The numbers below represent the number of officers involved across the cases,  
 18 aggregated, and the determination by FRB and FRU as to whether each officer's actions were  
 19 approved as consistent with policy and training.  
 20  
 21  
 22  
 23

## **Q1 2019 Most Serious Type of Force Used in Each Case**

Type I	0
Type II	36
Type III	3
Officer Involved Shooting	0
In-Custody Death	0
Total	39

## **Q1 2019 Force Review Findings by Officer:**

Approved	84
Not Approved	1
Referred to OPA	9
N/A <sup>8</sup>	11
Total	105

For 84 of the officers reviewed by the FRB and FRU in the fourth quarter of 2018, the force used was found to be reasonable, necessary, proportional, and in conformance with the Department's Use of Force Policy. In 9 instances, a matter was referred to OPA, and the FRB/U made no determination, per policy. Of the 9 referrals to OPA, the chain of command generated 6 of them, and 3 referrals were generated directly by the subject of force.

## Office of Police Accountability

The Office of Police Accountability (OPA) has authority over allegations of misconduct against SPD employees relating to SPD policy and federal, state, and local law. It investigates and makes recommended findings to the Chief of Police. The organization is led by a civilian director and deputy staff, while its investigations are currently carried out by SPD sergeants. OPA is continuing to civilianize its investigators.

<sup>8</sup> In the cases reviewed by FRB/U, 11 officers were involved in tactics and decision making who did not use force. In reviewing the actions of these officers, FRB/U made no findings on the use of force.

1 During the first quarter of 2019, OPA received 203 contacts. Contacts include “external”  
 2 complaints from members of the community and “internal” referrals from SPD employees  
 3 (primarily the chain of command). Sixty percent of the contacts in the first quarter were external  
 4 and 40% were initiated internally or forwarded by SPD. A lack of professionalism was the most  
 5 frequent misconduct allegation made to OPA, and it comprised 15% of all allegations received.  
 6 Seventy-four of 203 contacts classified by OPA in Q1 of 2019, or 36%, were classified for  
 7 investigation. In 11% of the cases in which findings were issued in the first quarter, OPA  
 8 recommended that at least one allegation be sustained. The Chief of Police did not overturn any  
 9 OPA recommended findings.

10 In addition to investigating allegations of misconduct, OPA recommends policy changes  
 11 to SPD when its investigations indicate that issues with Department policy, rather than actions of  
 12 individual officers, gave rise to a complaint. Those investigations result in a finding of “Not  
 13 Sustained – Management Action” and form the basis of OPA’s management action  
 14 recommendations. In the first quarter of 2019, OPA issued nine new management action  
 15 recommendations.

16 **IX. FIRST QUARTER DATA ON USE OF FORCE AND CRISIS INTERVENTION IS  
 17 CONSISTENT WITH PREVIOUS QUARTERS, EXCEPT FOR A DECREASE IN  
 18 TYPE I FORCE**

19 This section provides data on SPD’s use-of-force and crisis intervention practices for the first  
 20 calendar-year quarter of 2019, which runs from January 1, 2019, to March 31, 2019. The report  
 21 does not undertake to analyze or contextualize the data for two reasons. First, it would be  
 22 speculative to infer trends or draw comparisons based on one quarter of cross-sectional data.  
 23 Second, the Sustainment Plan, approved by the parties and the Court, sets forth a series of annual  
 audits and outcome reports which contain the Department’s analyses and conclusions.

1 In addition to the numbers below, comprehensive data on these topics are available to the  
 2 public through the Department's "dashboards" on its webpage at  
 3 <https://www.seattle.gov/police/information-and-data/public-data-sets>. The public dashboards can be  
 4 used to analyze and display data from numerous, disparate sources within SPD through the DAP.

5 *A. Use of Force*

6 Three hundred twenty-four uses of force were reported in Q1 2019. Because of the way  
 7 "use of force" is defined (one officer using force against one subject), a single incident often  
 8 results in multiple reported uses of force.

9 In the first quarter of 2019, two hundred forty-four (75%) of the reported applications of  
 10 force involved no greater than low-level, Type I force.<sup>9</sup> Sixty-seven (21%) involved Type II force  
 11 and 7 (2%) involved Type III force. There were two officer-involved shootings counted as 6 unique  
 12 uses of force because six officers discharged their firearm; one incident was fatal. *See Figure 2.*

13 One notable change is a decrease in Type I force, from 457 in the fourth quarter of 2018 to  
 14 244 in the first quarter of 2019. As shown in Figure 1, the number of this quarter is lower than for  
 15 any quarter of 2018. It is too early to conclude the reason for this decrease. However, as noted  
 16 previously in SPD's 2018 Use of Force Outcome Report, reported uses of Type I force increased  
 17 by 43% between 2017 and 2018. Dkt. 524-1 at 6. After a preliminary investigation, SPD concluded  
 18 that the primary cause of that increase was likely officers' overreporting of discomfort caused by  
 19 handcuffing. *Id.* Under Court-approved policy revisions that took effect on January 1, 2019,  
 20 handcuffing discomfort is no longer reportable as force and is tracked separately. Dkt. 471-1 at 43,

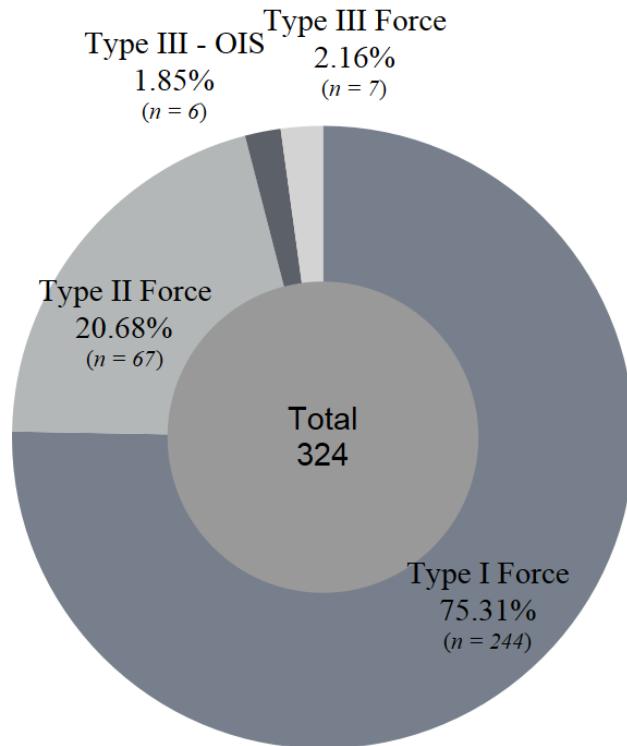
21  
 22 <sup>9</sup> The types of force are defined in Title 8 of the SPD manual. In brief: Type I is low-level  
 23 force that may involve transitory pain. Type II force causes or is reasonably expected to cause  
 physical injury greater than transitory pain but less than great or substantial bodily harm. Type III  
 force causes or is reasonably expected to cause great or substantial bodily harm.

1 48; 477. In addition, SPD deployed new handcuffs with beveled edges that are made of lighter-  
 2 weight aluminum; these handcuffs are equally effective and more comfortable. Dkt. 524-1 at 6.  
 3 These actions may explain the decrease in reported Type I force.

4 **Figure 1. Use of Force By Quarter**

	2018 Q1	2018 Q2	2018 Q3	2018 Q4	2019 Q1	<b>Total</b>
Type I Force	395	472	528	457	244	2,096
Type II Force	118	75	98	67	67	425
Type III Force	6	10	2	4	7	29
Type III - OIS	2			1	6	9
<b>Total</b>	521	557	628	529	324	2,559

11 **Figure 2. Q1 2019 Types of Force Used:**



1 In the context of overall encounters with the community, force is used rarely. During the  
 2 first quarter of 2019, the computer-aided dispatch (CAD) database recorded 96,536 unique  
 3 events to which officers were either called by a dispatcher or which officers observed or were  
 4 alerted to while on patrol. Three hundred and one of these events involved one or more  
 5 reportable applications of force. That means less than one-third of one percent of all events  
 6 involved any use of force. Seventy-nine (approximately eight one-hundredths of one percent) of  
 7 the 96,536 unique CAD events ultimately involved a use of force greater than Type I (i.e., Type  
 8 II or Type III).

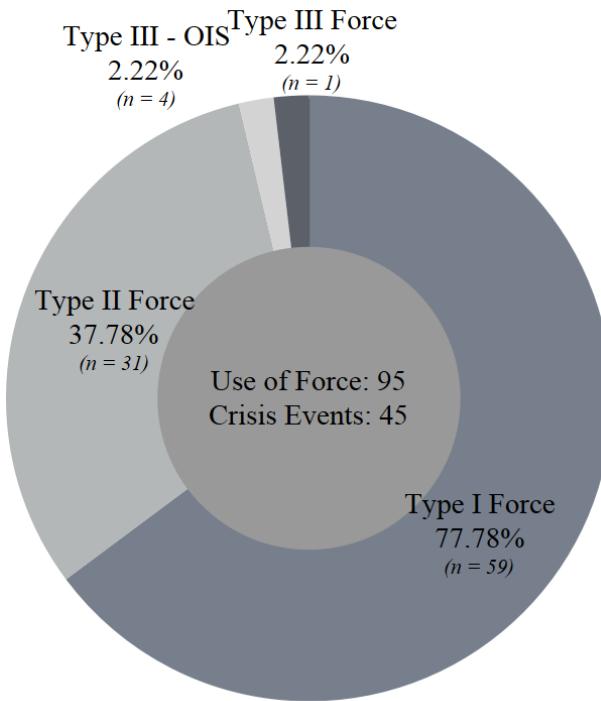
9 The demographic characteristics of subjects of force for the quarter are presented below in  
 10 Figure 3.

11 **Figure 3. Q1 2019 Race of Subjects of Force**

12	Subject Race	% of Total	UoF Count
13	White	45.68%	148
14	Not Specified	24.07%	78
15	Black or African American	21.91%	71
16	Asian	4.01%	13
17	Hispanic or Latino	3.09%	10
18	American Indian/Alaska Native	0.62%	2
19	Nat Hawaiian/Oth Pac Islander	0.62%	2
20	<b>Grand Total</b>	100.00%	324

21 *B. Crisis Intervention and Use of Force*

22 During the first quarter of 2019, officers reported 2,701 incidents involving a person in  
 23 crisis. Officers used force in forty-five of those incidents (less than 2%). The breakdown of types  
 of force used in crisis responses is similar to the breakdown for all uses of force, although Type  
 II force is slightly more frequent.

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**Figure 4. Q1 2019 Use of Force in Crisis Events:**

12 Of all the crisis incidents in the quarter, approximately 16% were resolved by voluntary  
 13 commitment or by referral to or notification of a community or social service support agency or  
 14 shelter. The most common disposition was a decision to detain the person for their own safety  
 15 under the Involuntary Treatment Act (34%). The second most common resolution was "No Action  
 16 Possible or Necessary," which means the person in crisis had left the scene or did not pose an  
 17 imminent threat of self-harm or harm to others (19%). *See Figure 5 below.*

### Figure 5. Q1 2019 Disposition of Crisis Contacts:

	Disposition	% of Total
	Emergent Detention/ITA	34.17%
No Action Possible or Necessary		19.47%
	Resources Declined	14.48%
	Subject Arrested	9.51%
	Chronic Complaint	8.37%
	Voluntary Committal	8.18%
	Mobile Crisis Team	6.89%
	Unable to Contact	4.11%
Mental Health Agency or Case Manager Notified		2.59%
	DMHP Referral	2.15%
	Drug/Alcohol Treatment Referral	0.89%
	Crisis Clinic	0.85%
	Shelter Transport	0.70%
Geriatric Regional Assessment Team		0.15%

*Note: Percentages total more than 100% because a crisis contact often leads to more than one disposition.*

**X. SPD HAS TIMELY AND SUCCESSFULLY COMPLETED ALL FIVE SCHEDULED AUDITS**

Since March, the parties and the Monitor have collaborated on developing methodologies for the Sustainment Period audits. Starting after the Mayor’s appointment of the City’s first Inspector General for Public Safety, her office began to contribute to the methodologies as well. In keeping with its deadlines, in previous quarters, the City has filed successfully completed audits with the Court, addressing the Consent Decree’s requirements in the areas of supervision; the reporting, review and investigation of force; and crisis intervention and the use of force against people in crisis. Dkts. 497-1 & 497-1, 511. These audits, and the independent verification of DOJ and the Monitoring Team, demonstrate sustainment compliance with the relevant Consent Decree requirements.

During the past quarter, SPD completed two additional audits.

1                   Stops and Detentions Audit

2                   This audit evaluated the data on temporary, investigative detentions known as *Terry*  
 3 stops.<sup>10</sup> Its findings demonstrate that the vast majority of stops and frisks conducted by SPD  
 4 officers meet constitutional requirements. Detectives from SPD's Audit, Policy, and Research  
 5 Section (APRS) conducted a review of a random sample of one-third of all contacts reported as  
 6 *Terry* stops during the period. They determined that, in 93.5% of the stops, the officer's report  
 7 (called a "Terry template") contained a narrative that documented adequate reasonable suspicion  
 8 for the stop. Further review was conducted of a small sample of the remaining 6.5% of stops for  
 9 which the template lacked documentation of adequate reasonable suspicion; in more than half of  
 10 these stops, adequate reasonable suspicion was documented in the accompanying general offense  
 11 report. The Monitor and the U.S. Department of Justice each performed an independent validation  
 12 of these findings and concluded that SPD continues to maintain compliance with the relevant  
 13 Consent Decree requirements. This audit was submitted to the Court on March 8, 2019. Dkt. 547

14                   Early Intervention System Audit

15                   SPD has also demonstrated sustained compliance with the Consent Decree requirements  
 16 related to its Early Intervention system (EIS). Paragraph 157 requires SPD to use an EIS for risk  
 17 management purposes. In keeping with this requirement, SPD adopted and maintains an EIS that  
 18 is threshold based. The threshold is the number of events and the time period that result in an EIS

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20                   <sup>10</sup> An investigative stop, or "Terry stop," is a temporary, investigative detention. It occurs  
 21 when an officer briefly detains a person for the purpose of investigating a crime. A Terry stop falls  
 22 short of an arrest and does not require probable cause, but it does require that the officer be able  
 23 to identify specific, objective facts which support a reasonable suspicion that the person  
 committed, is committing, or is about to commit a crime. An officer may conduct a frisk, or pat-  
 down, as part of a stop only if the officer has reasonable suspicion that the subject is armed and  
 dangerous. The legal authority for investigative stops and frisks was explained by the U.S.  
 Supreme Court in *Terry v. Ohio*, 392 U.S. 1 (1968).

1 “alert” for an officer. For example, the threshold for preventable vehicle collisions is 2 collisions  
 2 within 6 months. When an officer receives an alert, the EIS Coordinator reviews it and then,  
 3 depending on the circumstances, the officer’s supervisor may complete an assessment or develop  
 4 a mentoring plan for the officer.

5 The Consent Decree requires SPD to regularly monitor, review, and adjust, where  
 6 appropriate, the EIS events and thresholds to ensure that it is meeting its objectives. ¶¶ 157-  
 7 58, 163. As described in the Audit, SPD has continued to fulfill these requirements.

8 The EIS has been successful at developing supervisory skills and providing effective  
 9 coaching and mentoring to officers. Each assessment that is completed for an officer who receives  
 10 an alert requires the officer and his or her supervisor to meet in person to discuss the incidents that  
 11 caused the alert. These assessments lead to a large volume of active, engaged supervision that  
 12 otherwise would not have occurred. Approximately 10% of assessments result in an employee  
 13 being placed on a mentoring plan; these plans require supervisors to problem solve and engage  
 14 with their employees on an ongoing basis, often over a period of several months. The EIS  
 15 Coordinator serves as an important resource to new supervisors who seek to develop their skills in  
 16 performance management and mentoring.

17 In addition to identifying successes of the EIS, SPD also identified areas for improvement  
 18 and implemented solutions to address them. In order to evaluate the effectiveness of EIS in  
 19 achieving its risk management objectives, SPD partnered with a team of researchers at Washington  
 20 State University to compare overall officer performance across a series of behaviors, between a  
 21 group of officers who received an EIS alert and a group of officers who did not. SPD also  
 22 conducted internal focus groups with officers. Ultimately, the Department concluded that its  
 23

1 current EIS thresholds caused too many alerts for officers who are more proactive and who are  
 2 assigned to work in areas with a higher volume of calls for service.

3 To address this issue, SPD undertook a major effort to reform the EIS program and related  
 4 policies. This work was undertaken in consultation with the Monitor and DOJ. The policy revisions  
 5 were approved by the Court and took effect on January 1, 2019. Dkts. 502 & 510. Notably, the  
 6 triggers for use of force are adjusted so that they are still based on percentages, but now are also  
 7 subject to a baseline number of uses of force at or beneath which there will be no alert. For Type  
 8 I force, the trigger is still the top 1% of officers, with a new baseline of five incidents. Similarly,  
 9 for Type II the percentage stays at 5%, with a new baseline of three incidents. The adjustments are  
 10 intended to exclude from review the officers who fall within the top percentages for use of force,  
 11 but still have used force very rarely (to account for the fact that Department-wide the rate of force  
 12 used is extremely low).

13 The Monitor and the U.S. Department of Justice reviewed a sample of SPD's EIS  
 14 assessments and mentoring plans, interviewed the EIS coordinator, and concluded that SPD  
 15 continues to maintain compliance in this area. This audit was submitted to the Court on April 15,  
 16 2019. Dkt. 550.

## 17 XI. CONCLUSION

18 As measured by the parties' agreed-upon benchmarks for evaluating compliance—the audits—  
 19 SPD's performance is unquestionably strong. The Department has demonstrated continued  
 20 compliance in all of the areas evaluated thus far. But mere compliance with the Consent Decree is not  
 21 the benchmark that the City or the Department have set for themselves. Rather, the City is firmly  
 22 committed to progress and continuous improvement. Since the Court's determination that the City was  
 23 in full and effective compliance, the City and SPD have continued to make improvements in key areas.

1 The SPOG CBA achieves key advances in accountability and discipline. SPD continues to make  
2 strides in engaging with the diverse communities it serves, with its recent diversity hiring success as  
3 one notable example. The parties and the Monitor continue to work collaboratively on revising and  
4 improving SPD's policies to ensure that the Consent Decree reforms are both effective and durable.  
5 The extensive record before the Court documenting SPD's accomplishments throughout the  
6 Sustainment Period demonstrates that the City continues to meet and exceed the requirements of the  
7 Consent Decree.

1 DATED this 30th day of April, 2019.

2 For the CITY OF SEATTLE

3  
4 PETER S. HOLMES  
Seattle City Attorney

5  
6 s/ Kerala T. Cowart  
Kerala T. Cowart, WSBA #53649  
7 Assistant City Attorney  
Seattle City Attorney's Office  
701 Fifth Avenue, Suite 2050  
Phone: (206) 733-9001  
Fax: (206) 684-8284  
9 Email: kerala.cowart@seattle.gov

## **CERTIFICATE OF SERVICE**

I hereby certify that on April 30, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Annette L. Hayes	<a href="mailto:Annette.Hayes@usdoj.gov">Annette.Hayes@usdoj.gov</a>
Brian T. Moran	<a href="mailto:bmoran@usdoj.gov">bmoran@usdoj.gov</a>
Christina Fogg	<a href="mailto:Christina.Fogg@usdoj.gov">Christina.Fogg@usdoj.gov</a>
Gregory Colin Narver	<a href="mailto:gregory.narver@seattle.gov">gregory.narver@seattle.gov</a>
Kerry Jane Keefe	<a href="mailto:kerry.keefe@usdoj.gov">kerry.keefe@usdoj.gov</a>
Peter Samuel Holmes	<a href="mailto:peter.holmes@seattle.gov">peter.holmes@seattle.gov</a>
Jeff Murray	<a href="mailto:jeff.murray@usdoj.gov">jeff.murray@usdoj.gov</a>
Rebecca Boatright	<a href="mailto:rebecca.boatright@seattle.gov">rebecca.boatright@seattle.gov</a>
Ronald R. Ward	<a href="mailto:Ron@wardsmithlaw.com">Ron@wardsmithlaw.com</a>
Timothy D. Mygatt	<a href="mailto:timothy.mygatt@usdoj.gov">timothy.mygatt@usdoj.gov</a>
Gary T. Smith	<a href="mailto:gary.smith@seattle.gov">gary.smith@seattle.gov</a>
Hillary H. McClure	<a href="mailto:hillarym@vjmlaw.com">hillarym@vjmlaw.com</a>
David A. Perez	<a href="mailto:dperez@perkinscoie.com">dperez@perkinscoie.com</a>
Anna Thompson	<a href="mailto:annathompson@perkinscoie.com">annathompson@perkinscoie.com</a>
Kristina M. Detwiler	<a href="mailto:kdetwiler@unionattorneysnw.com">kdetwiler@unionattorneysnw.com</a>
Merrick Bobb	<a href="mailto:mbobb@pacbell.net">mbobb@pacbell.net</a>
Bruce E.H. Johnson	<a href="mailto:brucejohnson@dwt.com">brucejohnson@dwt.com</a>
Eric M. Stahl	<a href="mailto:ericstahl@dwt.com">ericstahl@dwt.com</a>

DATED this 30th day of April, 2019, at Seattle, King County, Washington.

/s/ Kerala Cowart  
Kerala Cowart, WSBA #53649  
Assistant City Attorney  
E-mail: [kerala.cowart@seattle.gov](mailto:kerala.cowart@seattle.gov)